

Appendix C

802 GOVERNMENT CODE

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC RETIREMENT SYSTEMS

CHAPTER 802. ADMINISTRATIVE REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 802.001. DEFINITIONS. In this chapter:

(1) "Board" means the State Pension Review Board.

(1-a) "Defined contribution plan" means a plan provided by the governing body of a public retirement system that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants that may be allocated to the participant's account.

(2) "Governing body of a public retirement system" means the board of trustees, pension board, or other public retirement system governing body that has the fiduciary responsibility for assets of the system and has the duties of overseeing the investment and expenditure of funds of the system and the administration of benefits of the system.

(3) "Public retirement system" means a continuing, organized program of service retirement, disability retirement, or death benefits for officers or employees of the state or a political subdivision, or of an agency or instrumentality of the state or a political subdivision, other than:

(A) a program providing only workers' compensation benefits;

(B) a program administered by the federal government;

(C) an individual retirement account or individual retirement annuity within the meaning of Section 408, or a retirement bond within the meaning of Section 409, of the Internal Revenue Code of 1986 (26 U.S.C. Sections 408, 409);

(D) a plan described by Section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401);

(E) an individual account plan consisting of an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403);

(F) an eligible state deferred compensation plan described by Section 457(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 457); or

(G)(i) in Sections [802.104](#) and [802.105](#) of this chapter, a program for which benefits are administered by a life insurance company; and

(ii) in the rest of this chapter, a program for which the only funding agency is a life insurance company.

(4) "System administrator" means a person designated by the governing body of a public retirement system to supervise the day-to-day affairs of the public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 195, ch. 18, Sec. 1, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 11, eff. Sept. 1, 1991.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. [13](#)), Sec. 3, eff. May 24, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. [200](#)), Sec. 8, eff. September 1, 2013.

Sec. 802.002. EXEMPTIONS. (a) Except as provided by Subsection (b), the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, and the Judicial Retirement System of Texas Plan Two are exempt from Sections [802.101](#)(a), [802.101](#)(b), [802.101](#)(d), [802.102](#), [802.103](#)(a), [802.103](#)(b), [802.2015](#), [802.2016](#), [802.202](#), [802.203](#), [802.204](#), [802.205](#), [802.206](#), and [802.207](#). The Judicial Retirement System of Texas Plan One is exempt from all of Subchapters B and C except Sections [802.104](#) and [802.105](#). The optional retirement program governed by Chapter [830](#) is exempt from all of Subchapters B and C except Section [802.106](#).

(b) If a public retirement system or program that is exempt under Subsection (a) is required by law to make an actuarial valuation of the assets of the system or program and publish actuarial information about the system or program, the actuary making the valuation and the governing body publishing the information must include the information required by Section [802.101](#)(b).

(c) Notwithstanding any other law, a defined contribution plan is exempt from Sections [802.101](#), [802.1012](#), [802.1014](#), [802.103](#), [802.104](#), and [802.202](#)(d). This subsection may not be construed to exempt any plan from Section [802.105](#) or [802.106](#)(h).

(d) Notwithstanding any other law, a retirement system that is organized under the Texas Local Fire Fighters Retirement Act (Article [6243e](#), Vernon's Texas Civil Statutes) for a fire department consisting exclusively of volunteers as defined by that Act is exempt from Sections [802.101](#), [802.1012](#), [802.1014](#), [802.102](#), [802.103](#), [802.104](#), and [802.202](#)(d). This subsection may not be construed to exempt any plan from Section [802.105](#) or [802.106](#)(h).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 2, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 3, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 602, Sec. 2, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. [200](#)), Sec. 9, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. [3310](#)), Sec. 2, eff. June 18, 2015.

Sec. 802.003. WRIT OF MANDAMUS. (a) Except as provided by Subsection (b), if the governing body of a public retirement system fails or refuses to comply with a requirement of this chapter that applies to it, a person residing in the political subdivision in which the members of the governing body are officers may file a motion, petition, or other appropriate pleading in a district court having jurisdiction in a county in which the political subdivision is located in whole or in part, for a writ of mandamus to compel the governing body to comply with the applicable requirement.

(b) If the governing body of the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas Municipal Retirement System, or the Texas County and District Retirement System fails or refuses to comply with a requirement of this chapter that applies to it, any resident of the state may file a pleading in a district court in Travis County to compel the governing body to comply with the applicable requirement.

(c) If the prevailing party in an action under this section is other than the governing body of a public retirement system, the court may award reasonable attorney's fees and costs of suit.

(d) The State Pension Review Board may file an appropriate pleading, in the manner provided by this section for filing by an individual, for the purpose of enforcing a requirement of Subchapter B or C, other than a requirement of Section [802.101](#)(a), [802.101](#)(d), [802.102](#), [802.103](#)(a), or [802.104](#).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 3, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. STUDIES AND REPORTS

Sec. 802.101. ACTUARIAL VALUATION. (a) The governing body of a public retirement system shall employ an actuary, as a full-time or part-time employee or as a consultant, to make a valuation at least

once every three years of the assets and liabilities of the system on the basis of assumptions and methods that are reasonable in the aggregate, considering the experience of the program and reasonable expectations, and that, in combination, offer the actuary's best estimate of anticipated experience under the program. The valuation must include a recommended contribution rate needed for the system to achieve and maintain an amortization period that does not exceed 30 years.

(b) On the basis of the valuation, the actuary shall make recommendations to the governing body of the public retirement system to ensure the actuarial soundness of the system. The actuary shall define each actuarial term and enumerate and explain each actuarial assumption used in making the valuation. This information must be included either in the actuarial study or in a separate report made available as a public record.

(c) The governing body of a public retirement system shall file with the State Pension Review Board a copy of each actuarial study and each separate report made as required by law.

(d) An actuary employed under this section must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 4, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 4, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. [3310](#)), Sec. 3, eff. June 18, 2015.

Sec. 802.1012. AUDITS OF ACTUARIAL VALUATIONS, STUDIES, AND REPORTS. (a) In this section, "governmental entity" means a unit of government that is the employer of active members of a public retirement system.

(b) Except as provided by Subsection (k), this section applies only to a public retirement system with total assets the book value of which, as of the last day of the preceding fiscal year, is at least \$100 million.

(c) Every five years, the actuarial valuations, studies, and reports of a public retirement system most recently prepared for the retirement system as required by Section [802.101](#) or other law under this title or under Title 109, Revised Statutes, must be audited by an independent actuary who:

(1) is engaged for the purpose of the audit by the governmental entity; and

(2) has the credentials required for an actuary under Section [802.101](#)(d).

(d) Before beginning an audit under this section, the governmental entity and the independent actuary must agree in writing to maintain the confidentiality of any nonpublic information provided by the public retirement system for the audit.

(e) Before beginning an audit under this section, the independent actuary must meet with the manager of the pension fund for the public retirement system to discuss the appropriate assumptions to use in conducting the audit.

(f) Not later than the 30th day after completing the audit under Subsection (c), the independent actuary shall submit to the public retirement system for purposes of discussion and clarification a preliminary draft of the audit report that is substantially complete.

(g) The independent actuary shall:

(1) discuss the preliminary draft of the audit report with the governing body of the public retirement system; and

(2) request in writing that the retirement system, on or before the 30th day after the date of receiving the preliminary draft, submit to the independent actuary any response that the retirement system wants to accompany the final audit report.

(h) The independent actuary shall submit to the governmental entity the final audit report that includes the audit results and any response received from the public retirement system:

(1) not earlier than the 31st day after the date on which the preliminary draft is submitted to the retirement system; and

(2) not later than the 60th day after the date on which the preliminary draft is submitted to the retirement system.

(i) At the first regularly scheduled open meeting after receiving the final audit report, the governing body of the governmental entity shall:

(1) include on the posted agenda for the meeting the presentation of the audit results;

(2) present the final audit report and any response from the public retirement system; and

(3) provide printed copies of the final audit report and the response from the public retirement system for individuals attending the meeting.

(j) The governmental entity shall:

(1) maintain a copy of the final audit report at its main office for public inspection;

(2) submit a copy of the final audit report to the public retirement system and the State Pension Review Board not later than the 30th day after the date the final audit report is received by the governmental entity; and

(3) pay all costs associated with conducting the audit and preparing and distributing the report under this section.

(k) This section does not apply to the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, or the Judicial Retirement System of Texas Plan Two.

Added by Acts 2007, 80th Leg., R.S., Ch. 733 (H.B. [2664](#)), Sec. 1, eff. September 1, 2007.

Sec. 802.1014. ACTUARIAL EXPERIENCE STUDY. (a) In this section, "actuarial experience study" means a study in which actuarial assumptions are reviewed in light of relevant experience factors, important trends, and economic projections with the purpose of determining whether actuarial assumptions require adjustment.

(b) Except as provided by Subsection (c), a public retirement system that conducts an actuarial experience study shall submit to the board a copy of the actuarial experience study before the 31st day after the date of the study's adoption.

(b-1) Except as provided by Subsection (c), a public retirement system that has assets of at least \$100 million shall conduct once every five years an actuarial experience study and shall submit to the board a copy of the actuarial experience study before the 31st day after the date of the study's adoption.

(c) This section does not apply to the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, or the Judicial Retirement System of Texas Plan Two.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. [200](#)), Sec. 10, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. [3310](#)), Sec. 4, eff. June 18, 2015.

Sec. 802.102. AUDIT. The governing body of a public retirement system shall have the accounts of the system audited at least annually by a certified public accountant in accordance with generally accepted auditing standards. A general audit of a governmental entity, as defined by Section [802.1012](#), does not satisfy the requirement of this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. [200](#)), Sec. 11, eff. September 1, 2013.

Sec. 802.1024. CORRECTION OF ERRORS. (a) Except as provided by Subsection (b), if an error in the records of a public retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the retirement system shall correct the error and so far as practicable adjust any future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid. If no future payments are due, the retirement system may recover the overpayment in any manner that would be permitted for the collection of any other debt.

(a-1) On discovery of an error described by Subsection (a), the public retirement system shall as soon as practicable, but not later than the 90th day after the date of discovery, give written notice of the error to the person receiving an incorrect amount of money. The notice must include:

- (1) the amount of the correction in overpayment or underpayment;
- (2) how the amount of the correction was calculated;
- (3) a brief explanation of the reason for the correction;
- (4) a statement that the notice recipient may file a written complaint with the retirement system if the recipient does not agree with the correction;
- (5) instructions for filing a written complaint; and
- (6) a payment plan option if no future payments are due.

(a-2) Except as provided by this subsection and Section [802.1025](#), the public retirement system shall begin to adjust future payments or, if no future payments are due, institute recovery of an overpayment of benefits under Subsection (a) not later than the 90th day after the date the notice required by Subsection (a-1) is delivered by certified mail, return receipt requested. If the system does not receive a signed receipt evidencing delivery of the notice on or before the 30th day after the date the notice is mailed, the system shall mail the notice a second time by certified mail, return receipt requested. Except as provided by Section [802.1025](#), not later than the 90th day after the date the second notice is mailed, the system shall begin to adjust future payments or, if no future payments are due, institute recovery of an overpayment of benefits.

(b) Except as provided by Subsection (c), a public retirement system:

- (1) may correct the overpayment of benefits to a person entitled to receive payments from the system by the method described by Subsection (a) only for an overpayment made during the three years preceding the date the system discovers or discovered the overpayment;
- (2) may not recover from the recipient any overpayment made more than three years before the discovery of the overpayment; and

(3) may not recover an overpayment if the system did not adjust future payments or, if no future payments are due, institute recovery of the overpayment within the time prescribed by Subsection (a-2) or Section [802.1025](#).

(c) Subsection (b) does not apply to an overpayment a reasonable person should know the person is not entitled to receive.

Added by Acts 2003, 78th Leg., ch. 416, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1164 (H.B. [155](#)), Sec. 1, eff. June 15, 2007.

Sec. 802.1025. COMPLAINT PROCEDURE. (a) Not later than the 20th day after the date of receiving notice under Section [802.1024](#)(a-1) or, if applicable, the second notice under Section [802.1024](#)(a-2), the notice recipient may file a written complaint with the retirement system. The recipient shall include any available supporting documentation with the complaint.

(b) Not later than the 30th day after the date of receiving a complaint under Subsection (a), the retirement system shall respond in writing to the complaint by confirming the amount of the proposed correction or, if the retirement system determines the amount of the proposed correction is incorrect, by modifying the amount of the correction. If the retirement system modifies the amount of the correction, the response must include:

- (1) how the modified correction was calculated;
- (2) a brief explanation of the reason for the modification; and
- (3) a payment plan option if no future payments are due.

(c) Subject to Subsection (d), if a complaint is filed under this section, the retirement system may not adjust future payments or recover an overpayment under Section [802.1024](#) until:

- (1) the 20th day after the date the notice recipient receives the response under Subsection (b), if the recipient does not file an administrative appeal by that date; or
- (2) the date a final decision by the retirement system is issued, if the recipient files an administrative appeal before the date described by Subdivision (1).

(d) If the retirement system has begun the adjustment of future payments or the recovery of an overpayment under Section [802.1024](#)(a-2), the system shall discontinue the adjustment of future payments or the recovery of the overpayment beginning with the first pay cycle occurring after the date the complaint is received by the system. The system may not recommence the adjustment of future payments or the recovery of an overpayment until the date described by Subsection (c)(1) or (2), as

applicable. If a complaint is resolved in favor of the person filing the complaint, not later than the 30th day after the date of the resolution, the system shall pay the person the appropriate amount.

(e) A person whose complaint is not resolved under this section must exhaust all administrative procedures provided by the retirement system. Not later than the 30th day after the date a final administrative decision is issued by the retirement system, a person aggrieved by the decision may appeal the decision to an appropriate district court.

Added by Acts 2007, 80th Leg., R.S., Ch. 1164 (H.B. [155](#)), Sec. 2, eff. June 15, 2007.

Sec. 802.103. ANNUAL FINANCIAL REPORT. (a) The governing body of a public retirement system shall publish an annual financial report showing the financial condition of the system as of the last day of the fiscal year covered in the report. The report must include:

(1) the financial statements and schedules examined in the most recent audit performed as required by Section [802.102](#);

(2) a statement of opinion by the certified public accountant as to whether or not the financial statements and schedules are presented fairly and in accordance with generally accepted accounting principles;

(3) a listing, by asset class, of all direct and indirect commissions and fees paid by the retirement system during the system's previous fiscal year for the sale, purchase, or management of system assets; and

(4) the names of investment managers engaged by the retirement system.

(b) The governing body of a public retirement system shall, before the 211th day after the last day of the fiscal year under which the system operates, file with the State Pension Review Board a copy of each annual financial report it makes as required by law.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 17, eff. September 1, 2013, and Ch. 1316 (S.B. 220), Sec. 4.01(1), eff. June 14, 2013.

(d) A general audit of a governmental entity, as defined by Section [802.1012](#), does not satisfy the requirement of this section.

(e) The board may adopt rules necessary to implement this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 5, 6, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 126, Sec. 1, eff. May 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. [200](#)), Sec. 12, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. [200](#)), Sec. 17, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. [220](#)), Sec. 4.01(1), eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 578 (S.B. [322](#)), Sec. 2, eff. June 10, 2019.

Sec. 802.104. REPORT OF MEMBERS AND RETIREES. Each public retirement system annually shall, before the 211th day after the last day of the fiscal year under which the system operates, submit to the board a report containing the number of members and number of retirees of the system as of the last day of the immediately preceding fiscal year.

Added by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 7, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 12, eff. Sept. 1, 1991.

Sec. 802.105. REGISTRATION. (a) Each public retirement system shall, before the 91st day after the date of its creation, register with the State Pension Review Board.

(b) A registration form submitted to the board must include:

- (1) the name, mailing address, and telephone number of the public retirement system;
- (2) the names and occupations of the chairman and other members of its governing body;
- (3) a citation of the law under which the system was created;
- (4) the beginning and ending dates of its fiscal year; and
- (5) the name of the administrator of the system and the person's business mailing address and telephone number if different from those of the retirement system.

(c) A public retirement system shall notify the board of changes in information required under Subsection (b) before the 31st day after the day the change occurs.

Added by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 7, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.106. INFORMATION TO MEMBER OR ANNUITANT. (a) When a person becomes a member of a public retirement system, the system shall provide the person:

- (1) a summary of the benefits from the retirement system available to or on behalf of a person who retires or dies while a member or retiree of the system;
 - (2) a summary of procedures for claiming or choosing the benefits available from the retirement system; and
 - (3) a summary of the provisions for employer and employee contributions, withdrawal of contributions, and eligibility for benefits, including any right to terminate employment and retain eligibility.
- (b) A public retirement system shall distribute to each active member and retiree a summary of any significant change that is made in statutes or ordinances governing the retirement system and that affects contributions, benefits, or eligibility. A distribution must be made before the 271st day after the day the change is adopted.
- (c) A public retirement system annually shall provide to each active member a statement of the amounts of the member's accumulated contributions and total accumulated service credit on which benefits may be based and to each annuitant a statement of the amount of payments made to the annuitant by the system during the preceding 12 months.
- (d) A public retirement system shall provide to each active member and annuitant a summary of the financial condition of the retirement system, if the actuary of the system determines, based on a computation of advanced funding of actuarial costs, that the financing arrangement of the system is inadequate. The actuarial determination must be disclosed to members and annuitants at the time annual statements are next provided under Subsection (c) after the determination is made. An actuary who makes a determination under this subsection must have at least five years of experience working with one or more public retirement systems and be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).
- (e) A member not currently contributing to a particular public retirement system is entitled on written request to receive from that system a copy of any document required by this section to be furnished to a member who is actively contributing.
- (f) The governing body of a public retirement system composed of participating subdivisions or municipalities may provide one copy of any document it prepares under this section to each affected participating subdivision or municipality. Each participating subdivision or municipality shall distribute the information contained in the document to its employee members and annuitants, as applicable.
- (g) Information required by this section may be contained, at the discretion of the public retirement system providing the information, in one or more separate documents. The information must be stated to the greatest extent practicable in terms understandable to a typical member of the public retirement system.

(h) A public retirement system shall submit to the board copies of the summarized information required by Subsections (a) and (b) before the 31st day after the date of publication or the date a change is adopted, as appropriate.

Added by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 7, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 6, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. [200](#)), Sec. 13, eff. September 1, 2013.

Sec. 802.107. GENERAL PROVISIONS RELATING TO REPORTS AND CONTACT INFORMATION. (a) A public retirement system shall maintain for public review at its main office and at such other locations as the retirement system considers appropriate copies of the most recent edition of each type of report or other information required by this chapter to be submitted to the State Pension Review Board.

(b) Information required by this chapter to be submitted to the State Pension Review Board may be contained in one or more documents but must be submitted within the period provided by the provision requiring the information.

(c) A public retirement system shall post on a publicly available Internet website:

(1) the name, business address, and business telephone number of a system administrator of the public retirement system; and

(2) a copy of the most recent edition of each report and other written information that is required by this chapter or Chapter [801](#) to be submitted to the board.

(d) A public retirement system that maintains a website or for which a website is maintained shall prominently post a link on that website to the information required by Subsection (c). All other public retirement systems shall:

(1) prominently post the information required by Subsection (c) on a website that is maintained by the governing body of the political subdivision of which members of the public retirement system are officers or employees; or

(2) post the information required by Subsection (c) on a publicly available website that is maintained by a state agency.

(e) A report or other information posted under Subsection (c) must remain posted until replaced with a more recently submitted edition of the report or information.

Added by Acts 1985, 69th Leg., ch. 143, Sec. 7, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.1061 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. [13](#)), Sec. 4, eff. May 24, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. [13](#)), Sec. 5, eff. May 24, 2013.

Sec. 802.108. REPORT OF INVESTMENT RETURNS AND ASSUMPTIONS. (a) A public retirement system shall, before the 211th day after the last day of its fiscal year, submit to the board an investment returns and actuarial assumptions report that includes:

- (1) gross investment returns and net investment returns for each of the most recent 10 fiscal years;
 - (2) the rolling gross and rolling net investment returns for the most recent 1-year, 3-year, and 10-year periods;
 - (3) the rolling gross and rolling net investment return for the most recent 30-year period or the gross and net investment return since inception of the system, whichever period is shorter;
 - (4) the assumed rate of return used in the most recent actuarial valuation; and
 - (5) the assumed rate of return used in each of the most recent 10 actuarial valuations.
- (b) For purposes of this section, "net investment return" means the gross investment return minus investment expenses. The net investment return may be calculated as the money-weighted rate of return as required by generally accepted accounting principles. The period basis for each report of investment returns under this section must be the fiscal year of the public retirement system submitting the report.
- (c) If any information required to be reported by a public retirement system under Subsection (a) is unavailable, the governing body of the public retirement system shall, before the 211th day after the last day of the public retirement system's fiscal year, submit to the board a letter certifying that the information is unavailable, providing a reason for the unavailability of the information, and agreeing to timely submit the information to the board if it becomes available.

Added by Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. [13](#)), Sec. 6, eff. May 24, 2013.

Sec. 802.1085. BIENNIAL REPORT ON INVESTMENT RETURNS OF CERTAIN PUBLIC RETIREMENT SYSTEMS. (a) This section applies only to the:

- (1) Employees Retirement System of Texas; and

(2) Teacher Retirement System of Texas.

(b) Not later than December 31 of each even-numbered year, the governing body of a public retirement system shall submit to the governor, the lieutenant governor, and each member of the legislature a report that details and compares the assumed rate of return and the annualized actual time-weighted rate of return achieved by the system for the most recent 1-year, 5-year, 10-year, and 20-year fiscal periods. The report must include:

(1) for each period, an estimate of what the market value of the invested assets of the fund would have been as of the most recent fiscal year end had the system achieved the applicable assumed rate of return; and

(2) a comparison of each estimate described by Subdivision (1) and the actual market value of the invested assets in the fund as of the most recent fiscal year end.

(c) The report required by this section may be combined with any other report required by law.

Added by Acts 2021, 87th Leg., R.S., Ch. 570 (S.B. [483](#)), Sec. 1, eff. September 1, 2021.

Sec. 802.109. INVESTMENT PRACTICES AND PERFORMANCE REPORTS. (a) Except as provided by Subsection (e) and subject to Subsections (c) and (k), a public retirement system shall select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the appropriateness, adequacy, and effectiveness of the retirement system's investment practices and performance and to make recommendations for improving the retirement system's investment policies, procedures, and practices. Each evaluation must include:

(1) a summary of the independent firm's experience in evaluating institutional investment practices and performance and a statement that the firm's experience meets the experience required by this subsection;

(2) a statement indicating the nature of any existing relationship between the independent firm and the public retirement system and confirming that the firm and any related entity are not involved in directly or indirectly managing the investments of the system;

(3) a list of the types of remuneration received by the independent firm from sources other than the public retirement system for services provided to the system;

(4) a statement identifying any potential conflict of interest or any appearance of a conflict of interest that could impact the analysis included in the evaluation due to an existing relationship between the independent firm and:

(A) the public retirement system; or

(B) any current or former member of the governing body of the system; and

(5) an explanation of the firm's determination regarding whether to include a recommendation for each of the following evaluated matters:

(A) an analysis of any investment policy or strategic investment plan adopted by the retirement system and the retirement system's compliance with that policy or plan;

(B) a detailed review of the retirement system's investment asset allocation, including:

(i) the process for determining target allocations;

(ii) the expected risk and expected rate of return, categorized by asset class;

(iii) the appropriateness of selection and valuation methodologies of alternative and illiquid assets; and

(iv) future cash flow and liquidity needs;

(C) a review of the appropriateness of investment fees and commissions paid by the retirement system;

(D) a review of the retirement system's governance processes related to investment activities, including investment decision-making processes, delegation of investment authority, and board investment expertise and education; and

(E) a review of the retirement system's investment manager selection and monitoring process.

(b) The governing body of a public retirement system may determine additional specific areas to be evaluated under Subsection (a) and may select particular asset classes on which to focus, but the first evaluation must be a comprehensive analysis of the retirement system's investment program that covers all asset classes.

(c) In selecting an independent firm to conduct the evaluation described by Subsection (a), a public retirement system:

(1) subject to Subdivision (2), may select a firm regardless of whether the firm has an existing relationship with the retirement system; and

(2) may not select a firm that directly or indirectly manages investments of the retirement system.

(d) A public retirement system shall conduct the evaluation described by Subsection (a):

(1) once every three years, if the total assets of the retirement system as of the last day of the preceding fiscal year were at least \$100 million; or

(2) once every six years, if the total assets of the retirement system as of the last day of the preceding fiscal year were at least \$30 million and less than \$100 million.

(e) A public retirement system is not required to conduct the evaluation described by Subsection (a) if the total assets of the retirement system as of the last day of the preceding fiscal year were less than \$30 million.

(e-1) Not later than the 30th day after the date an independent firm completes an evaluation described by Subsection (a), the independent firm shall:

- (1) submit to the public retirement system for purposes of discussion and clarification a substantially completed preliminary draft of the evaluation report; and
- (2) request in writing that the system, on or before the 30th day after the date the system receives the preliminary draft, submit to the firm:
 - (A) a description of any action taken or expected to be taken in response to a recommendation made in the evaluation; and
 - (B) any written response of the system that the system wants to accompany the final evaluation report.
- (f) The independent firm shall file the final evaluation report, including the evaluation results and any response received from the public retirement system, with the governing body of the system:
 - (1) not earlier than the 31st day after the date on which the preliminary draft is submitted to the system; and
 - (2) not later than the later of:
 - (A) the 60th day after the date on which the preliminary draft is submitted to the system; or
 - (B) May 1 in the year following the year in which the system is evaluated under Subsection (a).
 - (g) Not later than the 31st day after the date the governing body of a public retirement system receives a report of an evaluation under this section, the governing body shall submit the report to the board.
 - (h) A governmental entity that is the employer of active members of a public retirement system evaluated under Subsection (a) may pay all or part of the costs of the evaluation. The public retirement system shall pay any remaining unpaid costs of the evaluation.
 - (i) The board shall submit an investment performance report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems in the biennial report required by Section [801.203](#). The report must compile and summarize the information received under this section by the board during the preceding two fiscal years.
 - (j) Repealed by Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. [1585](#)), Sec. 20(1), eff. May 26, 2021.
 - (k) The following reports may be used by the applicable public retirement systems to satisfy the requirement for a report of an evaluation under this section:
 - (1) an investment report under Section 10A, Article 6243g-4, Revised Statutes;
 - (2) an investment report under Section 2D, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article [6243h](#), Vernon's Texas Civil Statutes); and
 - (3) a report on a review conducted on the retirement system's investments under Section 2B, Article 6243e.2(1), Revised Statutes.
 - (l) The board may adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 578 (S.B. [322](#)), Sec. 3, eff. June 10, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. [1585](#)), Sec. 20(1), eff. May 26, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. [3898](#)), Sec. 2, eff. September 1, 2021.

SUBCHAPTER C. ADMINISTRATION OF ASSETS

Sec. 802.201. ASSETS IN TRUST. The governing body of a public retirement system shall hold or cause to be held in trust the assets appropriated or dedicated to the system, for the benefit of the members and retirees of the system and their beneficiaries.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.2011. FUNDING POLICY. (a) In this section:

(1) "Funded ratio" means the ratio of a public retirement system's actuarial value of assets divided by the system's actuarial accrued liability.

(2) "Governmental entity" has the meaning assigned by Section [802.1012](#).

(3) "Statewide retirement system" means:

(A) the Employees Retirement System of Texas, including a retirement system administered by that system;

(B) the Teacher Retirement System of Texas;

(C) the Texas County and District Retirement System;

(D) the Texas Emergency Services Retirement System; and

(E) the Texas Municipal Retirement System.

(b) The governing body of a public retirement system and, if the system is not a statewide retirement system, its associated governmental entity shall:

(1) jointly, if applicable:

(A) develop and adopt a written funding policy that details a plan for achieving a funded ratio of the system that is equal to or greater than 100 percent; and

(B) timely revise the policy to reflect any significant changes to the policy, including changes required as a result of formulating and implementing a funding soundness restoration plan, including a revised funding soundness restoration plan, under Section [802.2015](#) or [802.2016](#);

(2) maintain for public review at its main office a copy of the policy;

(3) file a copy of the policy and each change to the policy with the board not later than the 31st day after the date the policy or change, as applicable, is adopted; and

(4) post a copy of the most recent edition of the policy on a publicly available Internet website in accordance with Section [802.107](#)(c)(2).

(c) For purposes of Subsection (b)(1)(B), the written funding policy must outline any automatic contribution or benefit changes designed to prevent having to formulate a revised funding soundness restoration plan under Section [802.2015](#)(d), including any automatic risk-sharing mechanisms that have been implemented, the adoption of an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms.

(d) The board may adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 453 (S.B. [2224](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. [3898](#)), Sec. 3, eff. September 1, 2021.

Sec. 802.2015. FUNDING SOUNDNESS RESTORATION PLAN. (a) In this section:

(1) "Funded ratio" has the meaning assigned by Section [802.2011](#).

(2) "Governmental entity" has the meaning assigned by Section [802.1012](#).

(b) This section applies to a public retirement system and its associated governmental entity other than a public retirement system and its associated governmental entity subject to Section [802.2016](#).

(c) A public retirement system shall notify the associated governmental entity in writing if the system receives an actuarial valuation indicating that the system's actual contributions are not sufficient to amortize the unfunded actuarial accrued liability within 30 years. The governing body of the public retirement system and the governing body of the associated governmental entity shall jointly formulate a funding soundness restoration plan under Subsection (e) if the system's actuarial valuation shows that the system's expected funding period:

(1) has exceeded 30 years for three consecutive annual actuarial valuations, or two consecutive annual actuarial valuations in the case of a system that conducts the valuations every two or three years; or

(2) effective September 1, 2025:

(A) exceeds 40 years; or

(B) exceeds 30 years and the funded ratio of the system is less than 65 percent.

(d) Except as provided by Subsection (d-1), the governing body of a public retirement system and the governing body of the associated governmental entity that have an existing funding soundness restoration plan under Subsection (e) shall formulate a revised funding soundness restoration plan under Subsection (e-1) if the system becomes subject to Subsection (c) before the 10th anniversary of the date prescribed by Subsection (e)(2)(A) or (B), as applicable.

(d-1) The governing body of a public retirement system and the governing body of the associated governmental entity are not subject to Subsection (d) if:

(1) the system's actuarial valuation shows that the system's expected funding period exceeds 30 years but is less than or equal to 40 years; and

(2) the system is:

(A) adhering to an existing funding soundness restoration plan that was formulated before September 1, 2025; or

(B) implementing a contribution rate structure that uses or will ultimately use an actuarially determined contribution structure and the system's actuarial valuation shows that the system is expected to achieve full funding.

(e) A funding soundness restoration plan formulated under this section must:

(1) be developed by the public retirement system and the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 30 years not later than the later of:

(A) the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan under this subsection; or

(B) September 1, 2025;

(3) be based on actions agreed to be taken by the system and entity that were approved by the respective governing bodies of both the system and the entity before the plan was adopted; and

(4) be adopted at open meetings of the respective governing bodies of the system and the entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-1) A revised funding soundness restoration plan formulated under this section must:

(1) be developed by the public retirement system and the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 25 years not later than the second anniversary of the valuation date stated in the actuarial valuation that required formulation of a revised plan under this subsection;

(3) be based on actions, including automatic risk-sharing mechanisms, an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms, agreed to be taken by the system and entity that were approved by the respective governing bodies of both the system and the entity before the plan was adopted; and

(4) be adopted at open meetings by the respective governing bodies of the system and the entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-2) Not later than the 90th day after the date on which the plan is adopted by both the governing body of the system and the governing body of the associated governmental entity, a system may submit to the board an actuarial valuation required under Section [802.101](#)(a) or other law that shows the combined impact of all changes to a funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1). If a system does not provide an actuarial valuation to the board in accordance with this subsection, the board may request that the system provide a separate analysis of the combined impact of all changes to a funding soundness restoration plan adopted under this section not later than the 90th day after the date the board makes the request. An actuarial valuation or separate analysis conducted under this subsection must include:

(1) an actuarial projection of the public retirement system's expected future assets and liabilities between the valuation date described by Subsection (e)(2)(A) or (e-1)(2), as applicable, and the date at which the plan is expected to achieve full funding; and

(2) a description of all assumptions and methods used to perform the analysis which must comply with actuarial standards of practice.

(e-3) The associated governmental entity may pay all or part of the costs of the separate analysis required under Subsection (e-2). The public retirement system shall pay any costs for the analysis not paid by the associated governmental entity.

(e-4) A funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1), may not include actions that are subject to future approval by the governing bodies of either the public retirement system or the associated governmental entity.

(f) A public retirement system and the associated governmental entity required to formulate a funding soundness restoration plan under this section, including a revised funding soundness restoration plan, shall provide a report to the board on progress made by the system and entity in formulating the plan, including a draft of any plan and a description of any changes under consideration for inclusion in a plan, not later than the first anniversary of the date of the actuarial valuation that required formulation of the

plan under Subsection (e) or (e-1) and each subsequent six-month period until the plan is submitted to the board under this section.

(g) Each public retirement system that formulates a funding soundness restoration plan as provided by this section shall submit a copy of that plan to the board and any change to the plan not later than the 31st day after the date on which the plan is adopted by both the governing body of the system and the governing body of the associated governmental entity or the date the change is agreed to.

(h) The board may adopt rules necessary to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. [3310](#)), Sec. 5, eff. June 18, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. [3898](#)), Sec. 4, eff. September 1, 2021.

Sec. 802.2016. FUNDING SOUNDNESS RESTORATION PLAN FOR CERTAIN PUBLIC RETIREMENT SYSTEMS.

(a) In this section:

(1) "Funded ratio" has the meaning assigned by Section [802.2011](#).

(2) "Governmental entity" has the meaning assigned by Section [802.1012](#).

(b) This section applies only to a public retirement system that is governed by Article 6243i, Revised Statutes, and its associated governmental entity.

(c) A public retirement system shall notify the associated governmental entity in writing if the system receives an actuarial valuation indicating that the system's actual contributions are not sufficient to amortize the unfunded actuarial accrued liability within 30 years. The governing body of the associated governmental entity shall formulate a funding soundness restoration plan under Subsection (e) if the system's actuarial valuation shows that the system's expected funding period:

(1) has exceeded 30 years for three consecutive annual actuarial valuations, or two consecutive annual actuarial valuations in the case of a system that conducts the valuations every two or three years; or

(2) effective September 1, 2025:

(A) exceeds 40 years; or

(B) exceeds 30 years and the funded ratio of the system is less than 65 percent.

(d) Except as provided by Subsection (d-1), the governing body of an associated governmental entity that has an existing funding soundness restoration plan under Subsection (e) shall formulate a revised funding soundness restoration plan under Subsection (e-1) if the system becomes subject to Subsection (c) before the 10th anniversary of the date prescribed by Subsection (e)(2)(A) or (B), as applicable.

(d-1) The associated governmental entity is not subject to Subsection (d) if:

(1) the system's actuarial valuation shows that the system's expected funding period exceeds 30 years but is less than or equal to 40 years; and

(2) the system is:

(A) adhering to an existing funding soundness restoration plan that was formulated before September 1, 2025; or

(B) implementing a contribution rate structure that uses or will ultimately use an actuarially determined contribution structure and the system's actuarial valuation shows that the system is expected to achieve full funding.

(e) A funding soundness restoration plan formulated under this section must:

(1) be developed in accordance with the public retirement system's governing statute by the associated governmental entity;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 30 years not later than the later of:

(A) the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan under this subsection; or

(B) September 1, 2025;

(3) be based on actions, including automatic risk-sharing mechanisms, an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms, agreed to be taken by the system and entity that were approved by the governing body of the associated governmental entity before the plan was adopted; and

(4) be adopted at an open meeting of the governing body of the associated governmental entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-1) A revised funding soundness restoration plan formulated under this section must:

(1) be developed by the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 25 years not later than the second anniversary of the valuation date stated in the actuarial valuation that required formulation of a revised plan under this subsection;

(3) be based on actions agreed to be taken by the system and entity that were approved by the governing body of the associated governmental entity before the plan was adopted; and

(4) be adopted at an open meeting of the governing body of the associated governmental entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-2) Not later than the 90th day after the date on which the plan is adopted by the governing body of the associated governmental entity, a system may submit to the board an actuarial valuation required under Section [802.101](#)(a) or other law that shows the combined impact of all changes to a funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1). If a system does not provide an actuarial valuation to the board in accordance with this subsection, the board may request that the system provide a separate analysis of the combined impact of all changes to a funding soundness restoration plan adopted under this section not later than the 90th day after the date the board makes the request. An actuarial valuation or the separate analysis conducted under this subsection must include:

(1) an actuarial projection of the public retirement system's expected future assets and liabilities between the valuation date described by Subsection (e)(2)(A) or (e-1)(2), as applicable, and the date at which the plan is expected to achieve full funding; and

(2) a description of all assumptions and methods used to perform the analysis which must comply with actuarial standards of practice.

(e-3) The associated governmental entity may pay all or part of the costs of the separate analysis required under Subsection (e-2). The public retirement system shall pay any costs for the analysis not paid by the associated governmental entity.

(e-4) A funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1), may not include actions that are subject to future approval by the governing body of the associated governmental entity.

(f) An associated governmental entity required to formulate a funding soundness restoration plan under this section, including a revised funding soundness restoration plan, shall provide a report to the board on progress made by the associated governmental entity in formulating the plan, including a draft of any plan and a description of any changes under consideration for inclusion in a plan, not later than the first anniversary of the date of the actuarial valuation that required formulation of the plan under Subsection (e) or (e-1) and each subsequent six-month period until the plan is submitted to the board under this section.

(g) An associated governmental entity that formulates a funding soundness restoration plan as provided by this section shall submit a copy of that plan to the board and any change to the plan not later than the 31st day after the date on which the plan is adopted by the governing body of the associated governmental entity or the date the change is formulated.

(h) The board may adopt rules necessary to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. [3310](#)), Sec. 5, eff. June 18, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. [3898](#)), Sec. 5, eff. September 1, 2021.

Sec. 802.202. INVESTMENT OF SURPLUS. (a) The governing body of a public retirement system is responsible for the management and administration of the funds of the system.

(b) When, in the opinion of the governing body, a surplus of funds exists in accounts of a public retirement system over the amount needed to make payments as they become due within the next year, the governing body shall deposit all or as much of the surplus as the governing body considers prudent in a reserve fund for investment.

(c) The governing body shall determine the procedure it finds most efficient and beneficial for the management of the reserve fund of the system. The governing body may directly manage the investments of the system or may choose and contract for professional investment management services.

(d) The governing body of a public retirement system shall:

(1) develop and adopt a written investment policy;

(2) maintain for public review at its main office a copy of the policy;

(3) file a copy of the policy with the State Pension Review Board not later than the 90th day after the date the policy is adopted; and

(4) file a copy of each change to the policy with the State Pension Review Board not later than the 90th day after the change is adopted.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 373, Sec. 1, eff. Aug. 30, 1993.

Sec. 802.203. FIDUCIARY RESPONSIBILITY. (a) In making and supervising investments of the reserve fund of a public retirement system, an investment manager or the governing body shall discharge its duties solely in the interest of the participants and beneficiaries:

(1) for the exclusive purposes of:

(A) providing benefits to participants and their beneficiaries; and

(B) defraying reasonable expenses of administering the system;

(2) with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims;

- (3) by diversifying the investments of the system to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
- (4) in accordance with the documents and instruments governing the system to the extent that the documents and instruments are consistent with this subchapter.
- (b) In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the governing body must act prudently and in the interest of the participants and beneficiaries of the public retirement system.
- (c) A trustee is not liable for the acts or omissions of an investment manager appointed under Section [802.204](#), nor is a trustee obligated to invest or otherwise manage any asset of the system subject to management by the investment manager.
- (d) An investment manager appointed under Section [802.204](#) shall acknowledge in writing the manager's fiduciary responsibilities to the fund the manager is appointed to serve.
- (e) The investment standards provided by Subsection (a) and the policies, requirements, and restrictions adopted under Section [802.204](#)(c) are the only standards, policies, or requirements for, or restrictions on, the investment of funds of a public retirement system by an investment manager or by a governing body during a 90-day interim between professional investment management services. Any other standard, policy, requirement, or restriction provided by law is suspended and not applicable during a time, and for 90 days after a time, in which an investment manager is responsible for investment of a reserve fund. If an investment manager has not begun managing investments of a reserve fund before the 91st day after the date of termination of the services of a previous investment manager, the standards, policies, requirements, and restrictions otherwise provided by law are applicable until the date professional investment management services are resumed.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 198, ch. 18, Sec. 8, 9, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.204. INVESTMENT MANAGER. (a) The governing body of a public retirement system may appoint investment managers for the system by contracting for professional investment management services with one or more organizations, which may include a bank if it has a trust department, that are in the business of managing investments.

(b) To be eligible for appointment under this section, an investment manager must be:

- (1) registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.);
- (2) a bank as defined by that Act; or
- (3) an insurance company qualified to perform investment services under the laws of more than one state.

(c) In a contract made under this section, the governing body shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the governing body adopts for investments of the system.

(d) A political subdivision of which members of the public retirement system are officers or employees may pay all or part of the cost of professional investment management services under a contract under this section. Any cost not paid directly by a political subdivision is payable from funds of the public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 199, ch. 18, Sec. 10, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.204 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.205. INVESTMENT CUSTODY ACCOUNT. (a) If the governing body of a public retirement system contracts for professional investment management services, it also shall enter into an investment custody account agreement designating a bank, depository trust company, or brokerage firm to serve as custodian for all assets allocated to or generated under the contract.

(b) Under a custody account agreement, the governing body of a public retirement system shall require the designated custodian to perform the duties and assume the responsibilities for funds under the contract for which the agreement is established that are performed and assumed, in the absence of a contract, by the custodian of system funds.

(c) A political subdivision of which members of the retirement system are officers or employees may pay all or part of the cost of custodial services under a custody account agreement under this section. Any cost not paid directly by a political subdivision is payable from funds of the public retirement system.

(d) If the governing body enters into a contract under Subsection (a) with a brokerage firm, the firm must:

- (1) be a broker-dealer registered with the Securities and Exchange Commission;
- (2) be a member of a national securities exchange;
- (3) be a member of the Securities Investor Protection Corporation;
- (4) be registered with the State Securities Board; and
- (5) maintain net regulatory capital of at least \$200 million.

(e) A brokerage firm contracted with for custodial services under this section may not have discretionary authority over the retirement system's assets in the firm's custody.

(f) A brokerage firm that provides custodial services under Subsection (a) must provide insurance against errors, omissions, mysterious disappearance, or fraud in an amount equal to the amount of the assets the firm holds in custody.

(g) A brokerage firm that provides consulting advice, custody of assets, or other services to a public retirement system under this chapter shall discharge its duties solely in the interest of the public retirement system in accordance with Section [802.203](#).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 621, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 916, Sec. 1, eff. June 20, 2003.

Sec. 802.206. EVALUATION OF INVESTMENT SERVICES. (a) The governing body of a public retirement system may at any time and shall at frequent intervals monitor the investments made by any investment manager for the system. The governing body may contract for professional evaluation services to fulfill this requirement.

(b) A political subdivision of which members of the retirement system are officers or employees may pay all or part of the cost of professional evaluation services under a contract under this section. Any cost not paid directly by a political subdivision is payable from funds of the public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.206 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.207. CUSTODY AND USE OF FUNDS. (a) An investment manager other than a bank having a contract with a public retirement system under Section [802.204](#) may not be a custodian of any assets of the reserve fund of the system.

(b) When demands of the public retirement system require, the governing body shall withdraw from a custodian of system funds money for use in paying benefits to members and other beneficiaries of the system and for other uses authorized by this subchapter and approved by the governing body.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. ACTUARIAL ANALYSIS OF LEGISLATION

Sec. 802.301. ACTUARIAL IMPACT STATEMENTS. (a) Except as provided by Subsection (g), a bill or resolution that proposes to change the amount or number of benefits or participation in benefits of a public retirement system or that proposes to change a fund liability of a public retirement system is required to have attached to it an actuarial impact statement as provided by this section.

(b) An actuarial impact statement required by this section must:

(1) summarize the actuarial analysis prepared under Section [802.302](#) for the bill or resolution accompanying the actuarial impact statement;

(2) identify and comment on the reasonableness of each actuarial assumption used in the actuarial analysis under Subdivision (1); and

(3) include other information determined necessary by board rule.

(c) The board is primarily responsible for preparing a required actuarial impact statement under this section.

(d) A required actuarial impact statement must be attached to the bill or resolution:

(1) before a committee hearing on the bill or resolution is held; and

(2) at the time it is reported from a legislative committee of either house for consideration by the full membership of a house of the legislature.

(e) An actuarial impact statement must remain with the bill or resolution to which it is attached throughout the legislative process, including the process of submission to the governor.

(f) A bill or resolution for which an actuarial impact statement is required is exempt from the requirement of a fiscal note as provided by Chapter [314](#).

(g) An actuarial impact statement is not required for a bill or resolution that proposes to have an economic effect on a public retirement system only by providing new or increased administrative duties.

(h) The board shall provide to the Legislative Budget Board a copy of any actuarial impact statement required under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 13, eff. Sept. 1, 1991.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. [59](#)), Sec. 44, eff. September 1, 2013.

Sec. 802.302. PREPARATION OF ACTUARIAL ANALYSIS. (a) The board shall request a public retirement system affected by a bill or resolution as described by Section [802.301\(a\)](#) to provide the board with an actuarial analysis.

(b) An actuarial analysis required by this section must be prepared by an actuary who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(c) A public retirement system that receives a request under Subsection (a) must provide the board with an actuarial analysis on or before the 21st day after the date of the request, if the request relates to a bill or resolution introduced for consideration during a regular legislative session.

(d) The board shall adopt deadlines for the provision under this section of an actuarial analysis that relates to a bill or resolution introduced for consideration during a called legislative session. The deadlines must be designed to provide the most complete information practicable in a timely manner.

(e) The board may prepare an actuarial analysis for a public retirement system that receives a request under Subsection (a) and does not provide the board with an actuarial analysis within the required period under Subsection (c) or (d).

(f) The public retirement system may reimburse the board's costs incurred in preparing an actuarial analysis under Subsection (e).

(g) For each actuarial analysis that a public retirement system prepares, the board shall have a second actuary:

(1) review the actuarial analysis accompanying the bill or resolution; and

(2) comment on the reasonableness of each actuarial assumption used in the public retirement system's actuarial analysis.

(h) Even if a public retirement system prepares an actuarial analysis under Subsection (c) or (d), the board may have a second actuary prepare a separate actuarial analysis.

(i) A public retirement system is not prohibited from providing to the legislature any actuarial analysis or information that the system determines necessary or proper.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 14, eff. Sept. 1, 1991.

Sec. 802.3021. STATE PENSION REVIEW BOARD ACTUARY. An actuary who reviews or prepares an actuarial analysis for the board must have at least five years of experience as an actuary working with

one or more public retirement systems and must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Redesignated from Sec. 802.302(c) and amended by Acts 1991, 72nd Leg., ch. 624, Sec. 14, eff. Sept. 1, 1991.

Sec. 802.303. CONTENTS OF ACTUARIAL ANALYSIS. (a) An actuarial analysis must show the economic effect of the bill or resolution on the public retirement system affected, including a projection of the annual cost to the system of implementing the legislation for at least 10 years. If the bill or resolution applies to more than one public retirement system, the cost estimates in the analysis may be limited to each affected state-financed public retirement system and each affected public retirement system in a city having a population of 200,000 or more.

(b) An actuarial analysis must include a statement of the actuarial assumptions and methods of computation used in the analysis and a statement of whether or not the bill or resolution, if enacted, will make the affected public retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound.

(c) The projection of the effect of the bill or resolution on the actuarial soundness of the system must be based on a computation of advanced funding of actuarial costs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.304. COST OF ACTUARIAL ANALYSIS. The state may not pay the cost of a required actuarial analysis that is prepared for a public retirement system not financed by the state, except that a sponsor of the bill or resolution for which the analysis is prepared may pay the cost of preparation out of funds available for the sponsor's personal or office expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.305. REPORTS, ANALYSES, AND ACTUARIAL IMPACT STATEMENTS FOR CERTAIN BILLS AND RESOLUTIONS. (a) The board may request a state-financed public retirement system to provide the board with:

(1) a report listing and totalling the actuarial effect of all public retirement bills and resolutions that have been presented in public hearings in either house of the legislature during the current legislative session and that affect the state-financed public retirement system; or

(2) an analysis of the actuarial effect of all public retirement bills and resolutions that have been passed by at least one house of the legislature during the current legislative session and that affect the state-financed public retirement system, assuming that each bill and resolution becomes law.

(b) A state-financed public retirement system that receives a request under Subsection (a) must provide the board with the requested report or analysis on or before the 21st day after the date of the request, if the request is made during a regular legislative session. If the state-financed public retirement system does not provide the board with the requested report or analysis within the 21-day period, the board may prepare the requested report or analysis.

(c) If the board prepares a requested report or analysis under Subsection (b), the state-financed public retirement system may reimburse the board's costs incurred in preparing the requested report or analysis.

(d) Even if a public retirement system prepares a required report or analysis under Subsection (b), the board may have a second actuary prepare a separate report or analysis.

(e) On or before the 70th day before the last possible day of each regular session of the legislature, the board shall provide the presiding officer of the committee responsible for retirement legislation in each house of the legislature an actuarial impact statement listing and totalling for each state-financed public retirement system the actuarial effect of all public retirement bills and resolutions that have been presented in public hearings in either house of the legislature during that legislative session and that affect that state-financed public retirement system.

(f) On or before the 30th day before the last possible day of each regular session of the legislature, the board shall provide the presiding officer of the committee responsible for retirement legislation in each house of the legislature an actuarial impact statement analyzing for each state-financed public retirement system the actuarial effect of all public retirement bills and resolutions that have been passed by at least one house of the legislature during that legislative session and that affect that state-financed public retirement system, assuming that each of the bills and resolutions becomes law.

(g) The board also shall provide the statements required by Subsections (e) and (f) during a called legislative session.

(h) The board shall adopt deadlines for the provision under this section of a report, analysis, or actuarial impact statement that relates to a bill or resolution introduced for consideration during a called legislative session. The deadlines must be designed to provide the most complete information practicable in a timely manner.

(i) In this section:

(1) "Public retirement bill or resolution" means a bill or resolution that proposes to change the amount or number of benefits or participation in benefits of a state-financed public retirement system or that proposes to change a fund liability of a state-financed public retirement system.

(2) "State-financed public retirement system" means the Employees Retirement System of Texas, including the law enforcement and custodial officer supplemental retirement fund, or the Teacher Retirement System of Texas.

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Added by Acts 1991, 72nd Leg., ch. 624, Sec. 15, eff. Sept. 1, 1991.